

HAMPTON PLANNING BOARD – MINUTES

March 5, 2003

PRESENT: Thomas Gillick, Chairman
Sharleene Hurst, Vice Chair
Jack Lessard, Clerk
Tom Higgins, Alternate
Keith Lessard
Peter Olney
Skip Sullivan, Selectmen Member
Jennifer Kimball, Town Planner
ABSENT: Bob Viviano

Mr. Gillick called the meeting to order at 7:00 p.m. and introduced the members in attendance.

I. NEW PUBLIC HEARINGS

1. Pamela M. Kopka
Special Permit to replace existing house in Wetlands Conservation District at
63 Barbour Road
Map 92, Lot 007
Owner of Record: Same as Above

Attorney Peter Saari addressed the Board and stated that the applicant has received several variances from the ZBA for a 2-lot subdivision, however after discussion with the Conservation Commission, the applicant decided to replace the existing home with a newer home, instead of the subdivision. To minimize the impact to the wetlands, the house will be relocated on the lot. The applicant will be connecting to town sewer and removing the existing septic system.

Mr. Gillick read the January 31, 2003 memo from the Conservation Commission. Mr. Saari stated that the applicant will comply with these conditions. In response to Mr. Olney's question, Mr. Saari stated that the house is 26 feet from front to back. Mr. Saari stated that, per the Conservation Commission memo, the rear deck will be approximately 8 feet off the ground in the buffer. Keith Lessard stated that he would like to see granite posts placed in the wetlands buffer to be consistent with the last special permit the Board approved. Mr. Lessard also commented that, subsequent to attending a non-source pollution meeting, he was concerned about storm water control ground source pollution and lawn care in the buffer, following the Shoreline Protect Act. He felt that perhaps this should be in the applicants' deed as well as it abuts the aquifer protection area and the wetlands.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. Sullivan **MOTIONED** to approve the Special Permit to replace existing house in Wetlands Conservation District at 63 Barbour Road, Map 92, Lot 007 subject to the following:

1. Conservation Commission memo dated January 31, 2003;

2. A plan delineating the wetland boundary and stamped by a wetland scientist, to be filed with the Registry of Deeds;
3. Monumentation (4' x 4' granite bounds) at 50 foot intervals along the wetland boundary.

Mrs. Hurst **SECONDED. VOTE:** All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

2. Sandra L. Wenning
Condominium Conversion at
52-54 Glade Path
Map 273, Lot 8-1
Waiver Requested: Subdivision Regulation Section V.E (Detailed Plan)
Owner of Record: Same as Above

Albert and Sandra Wenning addressed the Board. There will be separate utilities for both units. Mrs. Kimball stated that the Waiver Request is reasonable as there will be no development on the lot. Per condition #2 in her February 28 memo, the Board may wish a note on the final plan that the site abuts the wetlands and may be subject to local, state and/or federal requirements if any construction activity is proposed for the benefit of future buyers.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. J. Lessard **MOTIONED** to approve the Waiver Request, Subdivision Regulation Section V.E (Detailed Plan). Mrs. Hurst **SECONDED. VOTE:** 6-Yes. 1-Abstain (Sullivan). **MOTION PASSES IN THE AFFIRMATIVE.**

Mrs. Hurst **MOTIONED** to accept jurisdiction of and approve the Condominium Conversion at 52-54 Glade Path, Map 273, Lot 8-1, Plan #4-60-5862 dated 2/7/03 subject to Jennifer Kimball's memo dated February 28, 2003. Mr. K. Lessard **SECONDED. VOTE:** 6-Yes. 1-Abstain (Sullivan). **MOTION PASSES IN THE AFFIRMATIVE**

3. David Michel
2-Lot Subdivision at
435 Exeter Road
Map 37, Lot 5
Waiver Requested: Subdivision Regulations Section V.E.7 (Stormwater Plan)
Owner of Record: Same as Above

Mr. Paul Bernard addressed the Board and stated that he is the person who will be purchasing the lot in this application. The parcel is 7.85 acres and he wishes to build a single family home of similar style, set back approximately the same distance as the other home on the current parcel. As the driveway will not be long, there should be no problem with water runoff. Mrs. Kimball stated that the Board usually approves a Waiver Request from stormwater plan, with an existing frontage 2-lot subdivision as there is a lot of room for natural runoff. The application conforms to all zoning regulations. The subdivision would require DES Subsurface Subdivision Permit

because there will be on-site septic.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. K. Lessard **MOTIONED** to approve the Waiver Request, Subdivision Regulation Section V.E.7 (Stormwater Plan). Mrs. Hurst **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. K. Lessard **MOTIONED** to accept jurisdiction of and approve the 2-Lot Subdivision at 435 Exeter Road, Map 37, Lot 5, Plan dated 2/11/03 subject to Jennifer Kimball's memo dated February 28, 2003. Mrs. Hurst **SECONDED**.

Mr. Olney had a question about the existing driveway and its location so close the proposed property line. He asked if it will shared by both lots. He stated that the question about the driveway was brought up after the Public Hearing was closed; therefore the Board should allow the public to speak.

Mr. Sullivan **MOTIONED** to waive the rules of procedure and allow the public to speak. Mrs. Hurst **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Steve Batchelder, 7 Federal Street, Newburyport, MA. Mr. Batchelder, the previous owner of the lot, discussed the corner of the lot which was surveyed. He stated that when he had the site surveyed, the proposed property line was directly in the center of the existing driveway.

Mr. K. Lessard withdrew his motion. The applicant will resolve the discrepancy between the 2 maps concerning the exact location of the driveway. Mr. Gillick stated that the Board has a plan before the Board that is stamped by a licensed land surveyor and the Board should act on what is before them and not some other survey the Board did not review.

Mr. Higgins **MOTIONED** to accept jurisdiction of and approve the 2-Lot Subdivision at 435 Exeter Road, Map 37, Lot 5, Plan dated 2/11/03 subject to Jennifer Kimball's memo dated February 28, 2003. Mr. Sullivan **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Hurst **MOTIONED** to amend the agenda to hear item 1 under III Attending To Be Heard, Mario Sabatine. Mr. Sullivan **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

III. ATTENDING TO BE HEARD

1. Mario Sabatine

Use Change application to put a psychic reading business in a hotel lobby at
109-111 Ocean Boulevard
Map 290, Lot 56
Owner of Record: Richard Pouliot

Mr. Sabatine stated that he wanted to have a psychic reading business in a hotel lobby at 109-111 Ocean Boulevard. Mrs. Kimball stated that this is an allowed use. Mr. Sabatine will discuss the building permit and sign with the Building Inspector.

Mr. J. Lessard **MOTIONED** to approve the Use Change application to put a psychic reading business in a hotel lobby at 109-111 Ocean Boulevard, Map 290, Lot 56. Mrs. Hurst **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

4. Vertical Building & Development Company, LLC
Site Plan Review for 49 Unit Condominium with 2 retail stores at
Ocean Boulevard, J & K Streets
Map 293, Lot 008; Map 290, Lots 144, 145, & 146
Owners of Record: Nancy J. Higgins Revocable Trust; Five Jay Street, LLC;
Jerelyn A. Gray & Peter B. Dineen; Captain Morgan Inn, Inc.

Attorney Peter Saari, Stephen Yas and Joseph Coronati, Jones & Beach address the Board. Mr. Saari described the proposed site plan for the 49-unit condominium development.

Mr. Keith Lessard stated that the applicant is embarking on a very long process, and there will be new Board members shortly who will have to be educated on this application. Mr. Lessard asked if the applicant wanted to proceed. Mrs. Hurst stated that this was her and Mr. Olney's last meeting, with elections next week. Mr. Higgins stated that hopefully anyone who hoped to be a new Board member may be watching the meeting tonight. Mr. Gillick stated that this application has been noticed.

Mr. Coronati and Mr. Yas presented the overall development. The applicant has attempted to follow the Hampton Beach Master Plan. Mr. Coronati stated that a sewer line runs through the site, and they will speak with John Hangen about preserving the sewer lines. The site will need catch basin drainage along J and K Streets down to Ashworth Avenue which will provide an increased infrastructure. Roof drains will be piped into the underground system and the underground retention area which will reduce the peak runoff from the site. This will improve the runoff from the site and to the neighbors land. Water service will be existing uses for the site from Aquarion Water which is adequate to provide water to this site. Full fire protection sprinkler systems will be installed.

Mr. Yas discussed the building detail and stated that there are parks proposed at the end of the streets. Egress will be off K Street and J Street to the garage. The trash pickup area will be hidden from sight. There will be retail space on Ocean Boulevard. Mr. Yas presented a shading analysis per the Board's previous request at the Preliminary Consultation. The units will be approximately 1400-1575 sq. ft., 2 bedrooms, 2 ½ baths. There will also be 2 villa units with approximately 3,000 sq. ft., 3 bedrooms, and 2 ½ baths. There will be four penthouse units in the top floor which will be set back. There will be 2 parking spaces for each unit, with guest parking and handicap parking, for a total of 105 spaces. The driving aisles have been made larger than required to accommodate ease of turning. Mrs. Kimball requested additional information on

maneuvering within the parking garage. Mr. Yas stated that the front setback will allow for outdoor dining on the sidewalk. There is a proposed 1,600 sq. ft. recreation room, mail room, trash shoots and recessed patios.

Mrs. Hurst asked for shadow detail for all 4 seasons. Mr. Sullivan asked if the elevator was a piston elevator. Mr. Yas stated that it is a gear elevator. Mr. K. Lessard also asked for shadow detail for 4 seasons, as beach visitors came for the sun and sand. Mr. Lessard caused the applicant to continue to describe this plan as meeting the Hampton Beach Master plan, and he felt that certain items in this application do not meet the intent of the Hampton Beach Master Plan. Mr. Yas stated that he felt this application attempts to closely interpret the Master Plan.

Mr. Higgins had concerns about the height of the existing retaining wall, and would the grade level of the proposed structure be at the top of the retaining wall. Mr. Yas stated that the west side of building would be between 4'-5' wide with a landscape buffer with the lowest portion of the building appearing as a 14' wall facing the neighbors. Mr. Higgins also had questions about dumpster pickup, auto access, and roof access for maintenance.

Mr. Olney had concerns about sidewalk traffic, setting a precedent for traffic density, windows, blinds, height and larger shadows in the winter. Mr. Olney also concurred with Mr. K. Lessard stating that there were aspects of this project that did not conform with the intent of the Hampton Beach Master Plan. Steve Cecil (the author of the Master Plan) foresaw the problems of view and value of homes in the area. Mr. Olney felt that the Cecil Group should be contacted. Mr. Yas stated that because parking now has to be contained on site, this raises the height of the building from 50 feet. Mr. Olney disagreed.

OPEN PUBLIC HEARING.

Ed Szczepanik, J Street. Mr. Szczepanik was concerned about height, drainage and setbacks.

Geannina Guzman-Scanlan read a letter to the Board dated March 4, 2003 from Jeanne Lilienthal, 7 J Street. Mrs. Lilienthal raised concerns about safety, buffers, accessibility, traffic and loss of sun. She is opposed to the project.

Mark Cobb, 8 K Street. Mr. Cobb had concerns about the loading zone, exhaust from over 100 cars, garage door noise and flooding.

Michael Scanlan, 4 J Street. Mr. Scanlan presented the Board with pictures of the site. He had concerns about ingress/egress off a major street, one-way traffic, narrow roads and inebriated persons causing accidents. Mr. Scanlan also had concerns about shadowing, boarded up windows, loading zones, traffic congestion and parking, flooding and drainage. Mr. Scanlan read into the record a letter from Mr. Scott Godzyk, 26 J Street, dated March 4, 2003. Mr. Scanlan next read his own letter dated March 4, 2003 to the Board.

Mr. Sullivan objected to this letter being read in its entirety due to several inappropriate remarks and language. Mr. Gillick stated that this letter will be placed on file and objected to the accusation that the Planning Board was "redlining" by Mr. Scanlan. Mr. Gillick stated that the

ZBA has not abrogated their job.

Geannina Guzman-Scanlan, 4 J Street. Mrs. Scanlan stated that this was a very dense use requirements for a multi-family use and the ordinance states "no closer than 40' and 20' from the edge of buffer. Mrs. Scanlan requested that this application be denied. She expressed a desire for the applicants and Board to work with the abutters to come to a reasonable use of the site.

Vic Lessard, Hampton. Mr. Lessard spoke about the application as it was presented to the Zoning Board of Adjustments. He stated that he stepped down from the ZBA hearing on this matter. He noted that the hearing was run appropriately and all of the public was given the chance to speak.

Corina Mitchell, 6 Johnson Avenue. Mrs. Mitchell spoke in favor of the project and development at Hampton Beach. Conditions and problems with this site are pre-existing and the Town has to resolve for future development.

No further comment. SUSPEND PUBLIC HEARING.

Mr. Gillick stated that the Board will not take jurisdiction this evening, but will continue to a future date. Mr. Olney stated that it is not the role of the Planning Board to overrule a decision of the Zoning Board of Adjustment. Mr. Gillick asked for Board consensus for departmental reviews at this point.

Jennifer Kimball's referred to her memo and a traffic impact analysis which will need to be provided prior to departmental reviews, if the Board would like one. Mrs. Kimball stated that the ZBA will review this matter on March 20, and if a rehearing is granted it will be on April 17. Keith Lessard recommended that the Cecil Group be contacted for a recommendation. Mr. Saari stated that a traffic analysis would take 30 days.

Mrs. Hurst **MOTIONED** to continue the above application to April 16, 2003. Mr. J. Lessard **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Keith Lessard asked who would pay for the Cecil Group's study. It was agreed that Mrs. Kimball will contact the Cecil Group regarding the possibility of review for compliance with the Hampton Beach Master Plan, and will report back to the Board at the April 16 meeting.

II. OLD BUSINESS

1. WCV, Inc.
Discussion of public water requirement for
9-11, 17 & 19 K Street
Map 293, Lots 18, 19 & 20
Owner of Record: Same as Above

Attorney Craig Salomon, Senator Russell Prescott, R.E. Prescott & Co. and Ken Berry, Beals Associates addressed the Board.

Mr. Prescott spoke in his professional capacity as a consultant who designs water systems. This system does not come under the rules for a small community water system (for 24 persons). This will thus allow for a single, residential commercial well to be drilled and supply as much as (9) 2-bedroom units. Mr. Prescott spoke with Jim Gill, NH Dept. of Environmental Services, small community water system design review, for advice on the best way to approach this situation. Mr. Gill recommended 2 wells on this site, one for each building. Waivers could be obtained to locate the well underneath the garage so as to not incur damage from traffic or pollution.

Mrs. Kimball stated that the original approval for this project required hook ups from Aquarion Water. The applicant requests that this condition be modified. Keith Lessard asked for assurance of water quality and the condo documents include a requirement that the water be regularly tested. Mr. Salomon stated that this could be included in the condo documents and the budget. Mr. Prescott stated that water quality would be a condition prior to obtaining an occupancy permit.

Mr. Sullivan had a concern about cross connection of private water supply and Aquarion lines and that the wells be disconnected upon hookup to public water.

Mr. K. Lessard **MOTIONED** to modify its original approval (dated November 22, 2002), condition #1 to now read "The project may utilize private wells for water supply subject to:

1. Hook-up to public (Aquarion) water supply when the moratorium is lifted;
2. The condominium documents shall address maintenance of wells and require annual water testing to ensure potability;
3. No cross connection of private water supply with Aquarion lines;
4. Wells to be disconnected when public water hookups are completed;
5. The applicant shall certify the water supply is potable prior to issuance of the building permits."

Mr. Sullivan **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

IV. CONSIDERATION OF MINUTES – February 19, 2003

Mr. K. Lessard **MOTIONED** to approve the minutes of February 19, 2003. Mrs. Hurst **SECONDED. VOTE: 6 – Yes. 1 – Abstain (Gillick). MOTION PASSES IN THE AFFIRMATIVE.**

V. CORRESPONDENCE

The Board received an application from James Wilson, Teel Lobster, for an auto inspection station. Kevin Schultz writes that "This is for a fleet inspection station for the antique vehicles

owned and operated by Teel Lobster or Jim Wilson only. Not offered or able to be offered to the general public for service."

Mrs. Hurst **MOTIONED** to approve the auto inspection application of James Wilson, Teel Lobster, 363 Exeter Road, Hampton. Mr. Sullivan **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball stated that the Board received a request for an extension of the Special Permit from Brazonics, Tide Mill Road, LLC. The completed plan has been recorded. The application expires July 18, 2003, but they are not sure when they will commence construction.

Mr. Sullivan **MOTIONED** to grant a two-year extension for Brazonics/Tide Mill Road, LLC (to July 18, 2005). Mr. J. Lessard **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball stated that the Board received a request for a surety reduction for Halifax Highlands, 50 Acadia Avenue which was originally by Pride Development and taken over by Halifax Highlands, LLC. The Board received a letter from John Hangen stated that this is acceptable. The current amount would be reduced by \$25,000 to \$60,975.

Mr. Sullivan **MOTIONED** to reduce the surety in the matter of Halifax Highlands, LLC to \$60,975.00 per the recommendation of John Hangen, Director DPW. Mrs. Hurst **SECONDED. VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

VI. OTHER BUSINESS

1. Discussion of Master Plan updates

Mrs. Kimball reminded the Board that there will be a Public Hearing in 2 weeks on the Master Plan updates. They have to be posted on Friday and she needed any Board comments by this Thursday.

Mr. Gillick presented Board members, Sharleene Hurst and Peter Olney with a certificate of appreciation for exceptional service as this is their last meeting. Mr. Sullivan and Mrs. Hurst stated that they have enjoyed their time on the Board. Mr. Olney thanked the Board for their appreciation.

Mrs. Hurst **MOTIONED** to adjourn. Mr. J. Lessard **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Meeting adjourned at 10:45 p.m.

Respectfully Submitted,
Maryann Brickett,
Planning Board Secretary